

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

ALAN J. CHRISTIAN,)	CASE NO. 4:08 CV 1953
)	
Petitioner,)	JUDGE CHRISTOPHER A. BOYKO
)	
v.)	
)	<u>MEMORANDUM OF OPINION</u>
JESSE J. WILLIAMS,)	<u>AND ORDER</u>
)	
Respondent.)	

On August 13, 2008, petitioner pro se Alan J. Christian filed the above-captioned petition for writ of habeas corpus under 28 U.S.C. § 2254. Christian is incarcerated at the Oakwood Correctional Facility, having been convicted of felonious assault with a firearm specification. For the reasons stated below, the petition is denied and this action is dismissed.

A federal court may entertain a habeas petition filed by a person in state custody only on the ground that he is in custody in violation of the Constitution, laws, or treaties of the United States. 28 U.S.C. § 2254(a). In addition, petitioner must have exhausted all available state remedies. 28 U.S.C. § 2254(b).

Christian raises five grounds in support of the petition. Without regard to the potential merits of these grounds, it is evident on the face of the petition that they have yet to be

exhausted, as Christian has a petition for writ of certiorari pending in the United States Supreme Court. Petition, p.6. The petition is thus premature.

Accordingly, Petitioner's Motion to Proceed in forma pauperis is granted and this action is dismissed without prejudice pursuant to Rule 4 of the Rules Governing Section 2254 Cases. Further, the Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal from this decision could not be taken in good faith, and that there is no basis on which to issue a certificate of appealability. Fed.R.App.P. 22(b); 28 U.S.C. § 2253.

IT IS SO ORDERED.

S/Christopher A. Boyko
CHRISTOPHER A. BOYKO
UNITED STATES DISTRICT JUDGE

September 23, 2008